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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,843	12/12/2003	Toshihide Shinohara	Q78446	9032

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EXAMINER
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STULTZ, JESSICA T

ART UNIT	PAPER NUMBER
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2873

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/733,843	<b>Applicant(s)</b> SHINOHARA ET AL.	
	<b>Examiner</b> Jessica T Stultz	<b>Art Unit</b> 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,8, and 11 is/are rejected.
- 7) ☒ Claim(s) 2,7,9 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1203, 0504</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION*****Drawings***

Figures 4A, 4B, 5A, and 5B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 recites the limitation "The progressive addition power region"; "the intermediate corridor"; and "the near point" in the claim, however none of these were previously mentioned in the claim. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination based on what is disclosed in the specification and drawings, it is assumed that claim 11 depends from claim 5 and reads, "The progressive addition power lens as set forth in claim 5, further comprising: a near point at the top of the near dioptric power region; and an eye point in the intermediate corridor, at a position 9 to 12 mm higher than the near point."

***Claim Objections***

Claim 1 is objected to because of the following informalities: in claim 1, “a intermediate” should be “an intermediate”. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Winthrop EP 0 384 128, herein referred to as Winthrop.

Regarding claim 1, Winthrop discloses a progressive addition power lens comprising (Page 12, lines 4-40, wherein the progressive addition lens is shown in Figures 13A-13B): a near dioptric power region, an intermediate corridor, and a far dioptric power region (Page 12, lines 4-40, wherein the lens includes a near dioptric region, an intermediate corridor and a far region, Figure 13A), each with a respective clear visual region having astigmatism of 0.5 diopters or less (Page 12, lines 4-40, wherein the interior area has astigmatism of less than 0.5 diopters, Figure 13B); wherein: the intermediate corridor extends vertically from the near dioptric power region to the far dioptric power region, with a gradually decreasing refractive power (Shown in Figures 13A-13B, wherein the intermediate corridor has gradually decreasing refractive power); a maximum horizontal width of the clear visual region in the far dioptric power region is no more than twice a minimum horizontal width of the clear visual region in the intermediate corridor (Shown in Figure 13B, wherein the maximum width of the clear region, i.e. less than 0.5 diopters

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of the far region is less than twice the minimum horizontal width of the intermediate region); and a vertical length of the intermediate corridor is in a range of 22 to 28 mm (Page 12, lines 4-40, wherein the reading/near center of the lens is 16 mm below the point where the horizontal intersects the lens, i.e. the eye point, and the distance/far center of the lens is 12 mm above the eye point, therefore the length of the interior corridor, i.e. the length of NP-FP is 28 mm, which falls within the claimed range).

Regarding claim 3, it is inherent from Winthrop that the clear visual region of the near dioptric power region has a horizontal width of 30 mm or more this being reasonably based upon the width of the clear visual region of the near dioptric power region being larger than the intermediate corridor (Shown in Figure 13B, wherein the width is larger than the length of the intermediate corridor, of known length, 28mm).

Regarding claims 4-6, and 8, Winthrop further discloses a far point at the bottom of the far dioptric power region; and astigmatism peaks located to the sides of the far points, with positions higher than and substantially the same height as the far point (Shown in Figure 13B, wherein astigmatism peaks of greater than 0.5 diopters are shown at positions higher than and substantially the same height as the far region and therefore the far point).

***Allowable Subject Matter***

Claims 2, 7, and 9-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Specifically regarding claims 2, 7, and 9-11, none of the prior art alone or in combination disclose or teach of a progressive addition lens including a near power region, a far power region, and an intermediate corridor with the disclosed dimensions and further comprising a near point at the top of the near dioptric power region and an eye point in the intermediate corridor specifically wherein the eye point is located 9 to 12 mm higher than the near point.

### ***Conclusion***

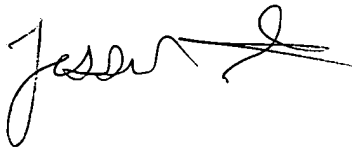
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shinohara, Yamamoto, and Furter are cited as having some similar structure to the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T Stultz whose telephone number is (571) 272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jessica Stultz  
Patent Examiner  
AU 2873  
February 3, 2005



**JORDAN SCHWARTZ**  
**PRIMARY EXAMINER**